



# Lamoine Board of Selectmen

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## Minutes – December 11, 2014

Chairman Gary McFarland called the meeting to order at 7:01 PM.

Present were: Selectmen Gary McFarland, Heather Fowler, Bernie Johnson, Nathan Mason, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Jay Barnes, Anthony Beardsley (town attorney), Frank Donnelly, Michael Jordan (Code Enforcement Officer), Warren Mead, Kathleen Rybarz, Bruce Gillett, Brian Hubbell (State Representative), Kathie Gaiainguest and Lynn Tscheiller

**Agenda** – No changes were proposed to the printed agenda or addendum.

**Minutes – November 13, 2014** – Nathan presented two minor editorial changes to the drafted minutes. Heather moved to approve the minutes as corrected. Gary 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Expenditure Warrant 11** – Stu reported the Selectmen had signed the warrant individually between meetings. There were no questions regarding the warrant.

**Expenditure Warrant 12** – Selectmen signed the warrant in the amount of \$253,365.74. Stu reported most of the expenditure was for two payroll and two operational warrants for the school department. Nathan asked about the reimbursement to firefighters. Stu reported that is the annual payment approved by the fire chief. Heather asked about the LED Stop Sign. Bernie explained how it functions, and that it's very visible at night.

**Cash & Budget Report** – Jo asked about the percent of the year that has passed. Stu pointed out the part of the report that shows that. Heather asked about the legal line. Stu said it's one of a few lines that is specially monitored in the report. It was noted that the town will likely exceed that budget again this fiscal year.

**Checking Account Reconciliation** – Selectmen signed the statement expressing satisfaction with review of the checking account reconciliation which was sent via e-mail to the Board.

**Foreclosure Notices** – Stu reported he has sent notices of foreclosure for the 2012/13 property tax liens. He said some payments have been received.

**Hodgkins Fund** – Stu reported Bar Harbor Bank and Trust sends a letter each year giving the town options on fund management. He recommended no change be made this year, as the fund is earning a decent rate of return.

**Dangerous Building Hearing** – Gary reopened the hearing at 7:10 PM. He reported the Selectmen had received e-mails from Mr. Barnes' attorney and from the town attorney via Stu in recent days. Bernie asked about the e-mail that went out this afternoon. Jo said that was a potential consent agreement. The Board of Selectmen reviewed the paperwork.

Stu summarized the case, saying the Selectmen received a complaint regarding the house at 91 Marlboro Beach Road and referred it to the Code Enforcement Officer and Health Officer. He said they visited the property and reported back to the Selectmen that the house potentially was a dangerous building for a variety of factors. He said the Selectmen ordered the hearing for the previous meeting, but because of the notification lead time, Mr. Barnes was unable to prepare for that meeting, which was postponed until now. Town attorney Tony Beardsley said that fairly summarizes the case. He said he spoke with Mr. Barnes' attorney who told him that he was unable to attend the meeting tonight, but Mr. Barnes could. He said the attorney understood that the Board of Selectmen could make their own mitigation proposal.

Jo asked to review the reports from the Code Enforcement Officer and the Health Officer. Stu read the reports aloud. Jo said the remedies proposed by Mr. Barnes and his attorney and reflected in a draft consent agreement addresses the concerns. Bernie said there is quite a list of concerns and asked Code Enforcement Officer Michael Jordan if the main structure is sound. Mr. Jordan said he is not a structural engineer, but the roof lines look straight and safe, so he would say probably. He said he did not go inside the residence. He said if the outbuildings, porch and ladder were removed, the structure would likely remain standing unless the floors have rotted.

Warren Mead identified himself as an abutting property owner and said he made a living by restoring old houses. He said this house is a beauty, though he had never been inside. He said the ridge lines on the roof are straight, and the roof appears to be less than 20-years old. He said the floors most likely are solid. He said he would like to see the house restored. He said his house and Mr. Barnes' house were the only two structures in that part of town for decades. He said his concern is whether there are any vehicles stored in the collapsed barn, and any heating fuel tanks stored in the residence that might contain fuel.

Mr. Barnes said there is a heating fuel tank in the cellar. Mr. Mead said he would like to have that checked out, but otherwise he would be happy to leave the property as it is.

Jo said the communication from Mr. Barnes' attorney and the proposed consent agreement seem to address the concerns. Gary asked if the fuel was contained in a tank. Mr. Barnes said it's basically empty. Bernie asked if someone could check that.

Mr. Barnes said a new roof was installed in 2001. He said the house was built in 1811 for \$1,100. He said they replaced the roof boards and installed CDX on the roof when that was done, and it's a 30-year roof. He said a contractor at that time told him there was nothing wrong with the house.

Frank Donnelly, a neighbor, said he questioned why this matter is before the Board of Selectmen. He said there are no kids that live in the neighborhood. He said Mr. Barnes lifestyle should not be a consideration in this matter. He asked who we are to tell someone to tear down a barn. He said he's not sure why tax dollars are being wasted on this issue. Gary said the Selectmen received a complaint. Mr. Donnelly said the Board

should skip this matter and leave it up to Mr. Barnes and the guy next door, and the Board should deal with the next issue important to the people of Lamoine.

Heather said she looked at the list of issues with the building, and part of her says to “mind your own business”. Jo said if the building were not located on the road, it likely would not have generated the complaint. She said the Selectmen had to respond to the complaint, and the health officer says there are issues to be concerned about. Heather said it tears her to see this issue to tear down an old building just because someone doesn’t like how it looks. Jo said the Selectmen should respect the reports from the Code Enforcement Officer and Health Officer. She asked Mr. Barnes to be careful with the vegetation removal. Bernie noted that a lot of this is the result of where the house is located, and there are lot of opinions about it.

Heather asked where the board goes from here. Jo said there is a drafted consent agreement, and an additional concern about heating fuel. Nathan said the tank can be inspected. Gary asked if there was any water issue in the basement. Mr. Barnes said as long as he keeps the cellar drains cleared, the water has not been an issue. He said he does this twice a year, and the neighbors misconstrue that as septage instead of storm water. Jo asked if the next step is for Mr. Barnes and his attorney to review the proposed consent agreement. Gary said Mr. Barnes could fax the proposed agreement to the attorney. Town Attorney Beardsley noted that Mr. Barnes’ attorney was present on the property and concluded that some corrective actions were warranted. He said the consent proposal outlines what was suggested, though it might not make some people happy.

Gary said the consent proposal addressed the safety concerns. Jo asked Mr. Barnes what he wanted to do. Mr. Barnes said he’s looked at the consent proposal and wants his attorney to look it over. He said he plans to board up the windows next week, and would get boards over the well and the bulkhead.

Bernie suggested inserting language into the consent agreement regarding the heating fuel tank. Nathan said he didn’t see a need to go that deep. Stu asked if the board is following the proper procedure. Mr. Beardsley said the proposed consent agreement indicates that the Selectmen would defer enforcement proceedings if there is a demonstration that progress is made. He said the Code Enforcement Officer will be the inspector and could cut Mr. Barnes some slack if there are weather issues. He said the agreement answers the issues that the CEO and Health Officer recognized. Mr. Barnes said the agreement sounded good to him. Mr. Beardsley said the Selectmen should move and 2<sup>nd</sup> the reviewed draft consent agreement. Mr. Barnes said he could get the fuel tank inspected. Gary asked that he have a written report submitted to the town hall.

Jo moved to sign the consent agreement and request that Mr. Barnes have the fuel tank inspected as outlined above. Gary 2<sup>nd</sup>. **Vote in favor was 5-0. Selectmen signed two copies of the proposed agreement and provided a copy to Mr. Barnes**

**Recreation Committee** – Stu reported that four people have offered to serve on a recreation committee and he has drafted up a policy based on the suggested proposal

distributed at the previous meeting. Heather said she liked the plan. Stu said if a committee is appointed, they might come up with some suggested changes. Heather asked if this committee would be separate from the PATRONS group. Nathan said the PATRONS are a private organization and a brief discussion followed.

Bernie said the buzz seems to have subsided, and maybe more folks will jump on board once a committee is appointed. The Board briefly discussed the proposed policy. Heather moved to accept the policy. Bernie 2<sup>nd</sup>. **Vote in favor was 5-0 – Selectmen signed the policy establishing a recreation committee.**

**Appointments** – Jo moved to appoint Jennifer Kovacs as the Registrar of Voters with her term expiring December 31, 2016 and Stuart Marckoon as the Deputy Registrar serving concurrently. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0.**

The Board signed appointment forms dated July 17, 2014 naming Jane Fowler and Kathie Gaianguet to the Heating Assistance Committee. Stu reported that the town clerk had been unable to find the signed appointments, though the board had voted to appoint both at the meeting on that date.

The board briefly discussed the four folks who expressed interest in serving on the recreation committee. Jo moved to appoint Timothy Jordan and Becky Mason to terms expiring June 30, 2016 and Elizabeth Stanley and Gregory Stone to terms expiring June 30, 2017. Gary 2<sup>nd</sup> (note, the terms were determined by alphabetical order). **Vote in favor was 4-0, Mason abstained.**

**Ordinances** – RV's – Building and Land Use – Stu reported the Planning Board has offered to tackle this issue.

Gravel Ordinance Revisions – There was a lengthy discussion about the various drafts of the gravel ordinance revisions generated by the Selectmen and the Planning Board. Heather asked if this needs to be a higher priority. Gary said it does. Heather said she is hearing from townspeople to get it done. Nathan asked if the Selectmen requested the Planning Board to review the draft.

Stu said it might be time for the two boards to sit down together in the same room at the same time to discuss things. Gary said he would like to see a formal request go to the Planning Board to get together and try to move forward. He asked that this be on the January 8, 2015 agenda. Kathie Gaianguet noted that the Planning Board meets on January 6, 2015. A brief discussion followed regarding the purpose of the meeting.

Appeals Board Ordinance – Stu reported that the Board of Appeals will begin work on a stand alone ordinance regarding appeals. He said most of the ordinances in town have an appeal section, but no two are the same and it's confusing to the residents as well as the Board of Appeals on which process to use.

**Cemetery Contract** – East Lamoine Cemetery – Stu reported that the contract submitted for signature by East Lamoine Cemetery Association contains what was

discussed at the previous meeting. A brief discussion followed about moving forward with the contract. Gary said he is close to getting the Marlboro Cemetery Association re-formed and anticipates that association would sign a similar contract. Jo moved to sign the contract for care of Veterans' graves with East Lamoine Cemetery Association. Gary 2<sup>nd</sup>. **Vote in favor was 5-0, Selectmen signed the contract.**

Forest Hill Cemetery Association – Stu reported the Forest Hill Cemetery Association had written to say the contract was not acceptable and made a counter proposal with more mowings and a higher cost than was proposed at the previous meeting. He said there was discussion at the Budget Committee this week that the association doesn't want to enter into a contract. He recommended that the response be that the counter-proposal is not acceptable, and that the Selectmen would like to discuss the issue further. There was no objection.

**Emera Maine Pole Permit** – Heather asked where the proposed utility pole would be located on Walker Road. Bernie said at Cameron Crawford's driveway. Heather moved to approve the permit application. Nathan 2<sup>nd</sup>. **Vote in favor was 5-0, and Selectmen signed the permit.**

**Contract with Small Animal Clinic** – Gary reported that Stu had contacted the SPCA of Hancock County, and that the executive director of the SPCA spoke with him shortly before the meeting expressing interest in offering stray sheltering services. Stu said the contract with the Small Animal Clinic does not offer any exclusivity. Gary said the SPCA director would be in contact with Stu, and suggested that the contract with the Small Animal Clinic be signed tonight. Jo moved to sign the contract with the Small Animal Clinic. Heather 2<sup>nd</sup>. **Vote in favor was 5-0 and Selectmen signed the contract.**

**Ames v. Town of Lamoine** – Stu reported he believes the case has been dismissed without prejudice and the plaintiff might submit something in the future to the Board of Selectmen to place before the town meeting. He said the Selectmen are in no way obligated to do so.

**Surplus property authorization** – Nathan moved to authorize Gary to sign the application with the State of Maine Surplus Property Program to allow town officials the opportunity to purchase such property. Heather 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Holiday Hours** – After a brief discussion the board set the following hours for late December, early January:

Day	Date	Town Office	Transfer Station
Wednesday	Dec 24	Open 9-Noon	Closed
Thursday	Dec 25	Closed	Closed
Friday	Dec 26	Closed	Open 8am-5pm
Saturday	Dec 27	Closed	Open 8am-5pm
Wednesday	Dec 31	Open 9am-2pm	Closed
Thursday	Jan 1	Closed	Closed
Friday	Jan 2	Open 8am-4pm	Open Noon-5pm

Saturday	Jan 3	Open 8am-Noon	Open 8am-5pm
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Regular hours will resume January 5, 2015.

**Land for Sale** – Gary said this involves the land across the street from the town office. Bernie said a community member brought this up and it's an interesting possibility of having 49-acres. Heather asked if the land is unbuildable. Michael Jordan said it's possible that a septic could be accommodated on the Northern side. Bernie said the location is intriguing.

Stu asked if the Board is interested in pursuing anything. Gary said he's interested. Nathan said it wouldn't hurt to talk with the real estate agent. Mr. Jordan suggested contacting site evaluator Bill LaBelle who has looked at the site to see if it will pass a perk test, and what potentially could be put on it.

Nathan asked what would the town be looking at it for, and suggested more discussion about that. Discussion followed about wetlands. Stu asked if he should contact the realtor. There was no objection. Jo said she would like to see some sort of plan.

**Request for compliance deadline extension** – Stu reported that Russell Boynton Jr. requested of the Board of Appeals and the Selectmen an extension to comply with a notice of violation issued by the Code Enforcement Officer in regard to removing junk from his property. He said the Board of Appeals unanimously endorsed the request earlier in the week. He said he didn't think any formal consent agreement would be required at this point. Gary said if the Appeals Board is OK with the extension, he would be as well. There was no objection.

**Vacation Request** – There was no objection to a request from Stu regarding taking vacation the week between Christmas and January 2, 2015.

**Budget Workshop** – Stu said the Selectmen have not really discussed the proposed municipal budget that was placed before the Budget Committee. He noted that the Washington Hancock Community Agency submitted a proposal following the ordinance deadline due to a death, and asked for guidance on how to handle. Gary suggested placing the item on the funding list in the warrant but without a recommendation. Jo said that seemed like a reasonable approach.

Jo said the budget is very reasonable, with many budgets kept down. Gary said he attended the budget committee meetings and asked some questions and got satisfactory answers.

There was a lengthy discussion about replacing the rescue boat at the fire department. There was also a discussion about building a new foundation under the town office and replacing the front steps. The Selectmen opted to keep the rescue boat request in the budget but remove the foundation/steps item and spend the next year researching what the potential cost of that project might be.

Jo suggested the entire board should attend the January 12, 2015 budget Committee meeting, saying that committee deserves to have the Selectmen present. No other changes were proposed to the budget.

**Other Business** – State Representative Brian Hubbell said he would not be attending many of the upcoming meetings because the Legislature will be in session. Stu praised his attendance in recent months, noting he was the first state rep to do so in his memory.

**Next Meeting** – Stu said he would e-mail an expenditure warrant by December 17, 2014 so that the board could swing by and sign on the 18<sup>th</sup>. Gary identified the next few dates as January 8 and 22, 2015, February 12 and 26, 2015 and March 11 (open town meeting), 12 and 26, 2015.

**Executive Session** – Gary moved to enter executive session pursuant to 1MRSA §405(6)(a) to discuss a personnel matter (Administrative Assistant) Jo 2<sup>nd</sup>. **Vote in favor at 9:02 PM. Out at 9:11 PM**

There being no further business, the meeting adjourned at 9:11 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen